RECENT CASES.

BANKRUPTCY—PREFERENCES—DEDUCTION OF NEW CREDITS.—IN RE SOLDOSKY ET AL., 111 FED. 511, (MINN.), AND IN RE SOUTHERN OVERALLS MFG. CO., 111 Fed. 518, (Ga.).—The Bankruptcy Act of 1898, Section 60 c. entitles a creditor who has received preferential payment on account, but who has extended further credit as therein specified, to a deduction of the amount of such new credits from the preferences that he would otherwise be required to surrender before proving the remainder of his debt, and is not limited in its application to cases where the trustee sues to recover the preferences.

The question involved in these two cases is a very important one, and one over which there has been much conflict of authority. Until the present decisions the authorities were evenly divided. The following cases supporting the above two, hold that Section 60 c. of the bankruptcy act was enacted for the benefit of all creditors who had received preferences and given the bankrupt further credit. *In re Ryan,* 105 Fed. 760; *McKey* v. *Lee,* 105 Fed. 923; *In re Deckler,* 106 Fed. 484. That Section 60 c. applies only to creditors, who have received preferences in bad faith, is held by *In re Christensen,* 101 Fed. 802; *In re Arndt,* 104 Fed. 234; *In re Keller,* 109 Fed. 118; *In re Oliver,* 109 Fed. 784.

BANKRUPRCY—PROVABLE CLAIMS—PREFERENCES.—IN RE KELLER, 109 Fed. 118 (Iowa).—When a creditor receives a partial payment from an insolvent debtor within four months prior to his bankruptcy, such payment constitutes a preference, which must be surrendered by the creditor, before he will be allowed to prove his debt against the bankrupt's estate, without regard to the knowledge or belief by either debtor or creditor of the debtor's insolvency at the time of payment.

The question here at issue has been differently decided by the federal courts, a similar case not yet having been tried out before the Supreme Court. The weight of authority, if not of reason, seems to hold a different view from that in the decision above. *In re Ratliff* 107 Fed. 80; *In re Eggert,* 98 Fed. 843; *In re Smoke,* 104 Fed. 289; *In re Hall, 4 Am. Banks,* R. 671; *In re Alexander,* 102 Fed. 464. The present case is supported by *In re Sloan,* 102 Fed. 116; *In re Fort Wayne Electric Corpus.,* 99 Fed. 400; *In re Couliam,* 97 Fed. 923.

CARRIERS—EXPULSION OF PASSENGER—ROUND TRIP—STAMPING RETURN TICKET.—SOUTHERN RY. CO. V. WOOD, 39 S. E. 894 (Ga.).—Where a round-trip ticket provides that the return coupon should not be good unless it was properly stamped by its agent, and where the railroad company failed to furnish an agent at reasonable times, *held,* that a purchaser of such ticket, upon explanation of the facts to the conductor, is entitled to ride upon any proper train, and has a right of action in tort against the railroad company for his expulsion.

There is a radical conflict of authority as to the liability of the carrier for the ejection of a passenger who tenders an invalid ticket, the invalidity of which is due to the negligence of the carrier's agents. Many courts hold that under such circumstances a passenger cannot recover for his ejection, but that it is his duty to leave the train, and bring his action simply for the actual damages arising from the breech of contract in failing to provide him with a proper ticket. *Western M. R. Co.* v. *Stocksdale,* 34 Atl. 880 (Md.); *Poulin* v. *Ry. Co.,* 52 Fed. 197; *Hufford* v. *Ry. Co.,* 53 Mich. 158; *Townsend* v. *Ry. Co.,* 56 N. Y. 295; *Cloud* v. *Ry. Co.,* 14 Mo. App. 136. The decided weight of authority, however, is that a passenger may maintain an action in tort for his expulsion, and is not limited to an action on his contract. *N. P. Ry. Co.* v *Panson,* 70 Fed. 585; *Head* v. *Railway Co.,* 79 Ga. 358; *Sloane* v. *So. Col. Ry. Co.,* 111 Col. 668; *Hubbard* v. *Ry. Co.,* 64 Mich. 631; *Ellsworth* v. *R. Co.,* 63 N. W. 584; *Penn. R. Co.* v. *Bray,* 125 Ind. 229.

CONSTITUTIONAL LAW—EQUAL PROTECTION OF THE LAW-STATUTE LIMITING CHARGES FOR THE USE OF PRIVATE PROPERTY.—COTTING V. GODARD, 22 Sup. Ct. 30.—The Kansas Legislature enacted that no stock yard company doing business above a certain amount should charge in excess of a certain rate on each head of stock passing through its yards. *Held,* the Act was unconstitutional.

Justice Brewer's opinion showed that there was no question as to the reasonableness of the limitation, but based his opinion on two grounds; first, that equal protection of the law would be denied the Kansas City Stock Yark Co. inasmuch as it was the only concern doing business of an amount provided for in the Act, and secondly, that this business is not of a class in which the public has such an interest as to warrant a reasonable limitation of charges by the legislature. Justice Brewer here discloses a refinement of the doctrine as laid down in *Munn* v. *Illinois,* 94 U. S. in declaring that this right of the legislature to put a reasonable limit on the charges of a business in which the public has an interest is confined to those cases in which the public has come to have this interest because the work is such as is usually performed by the state by aid of eminent domain and without a view of profit, in the mercantile sense, and that a private individual undertaking such work impliedly agrees to subject himself to such control.

CONSTITUTIONAL LAW—LAW FOR CUSTODY OF INSANE PERSONS—IN RE LAMBERT, 66 Pac. 851 (Cal.).—The insanity law of 1897 authorized the judge of a superior court on the application of a relative or friend of an alleged insane person for his commitment to a hospital, accompanied by a certificate of lunacy signed by two medical examiners, to forthwith determine the question of insanity and immediately commit the person to a hospital. *Held,* to be void, as depriving a person of his liberty "without due process of law." Gagoutte, J.,*dissenting.*

While this decision renders entirely void the Insanity Law of 1897, intended to be a complete revision of insanity legislation, yet it is to be commended for its justice. Contrasted with the New York law, this act made no provision for giving the alleged insane person notice and an opportunity to be heard. The court in its opinion follows the law as laid down in New York that absence of such provisions is fatal. *Stuart* v. *Palmer,* 74 N. Y. 188.